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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,975	06/11/2007	Jay S. Walker	03-048	9265
22927 7590 11/10/2010 WALKER DIGITAL MANAGEMENT, LLC 2 HIGH RIDGE PARK STAMFORD, CT 06905				
EXAMINER COLLINS, MICHAEL				
ART UNIT 3651		PAPER NUMBER		
MAIL DATE 11/10/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/580,975

**Applicant(s)**

WALKER ET AL.

**Examiner**

MICHAEL K. COLLINS

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group I in the reply filed on 1/25/2010 is acknowledged. The traversal is on the ground(s) that the *prima facie* burden has not been met and the Examiner has failed to establish an undue burden. This is found persuasive for claim 15 in group II and claims 17-18 in group IV because claims 15 and 17-18 would not require an undue burden of search. With regard to claim 16 the argument is not found persuasive because the claim is not directed to a method of dispensing and control of a vending machine but rather a web site including a game with a benefit offer. As such the claim would require an undue burden of search due to its separate art status and classification.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Viglione (USPGPUB 2003/0186732).

Regarding claim 1, Viglione discloses a method, comprising:

- receiving, from a customer via a vending machine (10), a selection of a product available for dispensing, thereby defining a first product (see step 3);
- determining a set of entitlement options (see step 2);
- outputting a presentation which indicates the set of entitlement options, in which the presentation is output employing a game theme (see step 4);
- selecting at least one of the set of entitlement options, thereby defining at least one selected entitlement (see paragraph [0021]); and
- providing the at least one selected entitlement.

Regarding claim 2, Viglione discloses the method of claim 1, in which outputting a presentation employing a game theme comprises at least one of:

- displaying an animated wheel which spins and which indicates one of a plurality of benefits (see paragraph [0025]);
- displaying a plurality of objects which each selectively conceal an indication of a benefit; and
- displaying a plurality of spinning reels which each bear symbols representative of benefits.

Regarding claim 3, Viglione discloses the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- receiving, from a customer via a vending machine, a selection of at least one of the set of entitlement options, thereby defining the at least one selected entitlement (see paragraph [0021]).

Regarding claim 4, Viglione discloses the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- selecting at least one of the set of entitlement options based at least in part on an input received from a customer (see paragraph [0027]).

Regarding claim 5, Viglione discloses the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- selecting at least one of the set of entitlement options without regard to any input that is received from a customer after receiving, from the customer, the selection of the product available for dispensing (see paragraph [0027]).

Regarding claim 6, Viglione discloses the method of claim 1, in which determining a set of entitlement options comprises:

- determining a set of entitlement options based on the first product (see paragraph [0027]).

Regarding claim 7, Viglione discloses the method of claim 1, in which determining a set of entitlement options comprises:

- determining a set of entitlement options based on profit inventory management data (see paragraph [0032]).

Regarding claim 8, Viglione discloses the method of claim 1, further comprising:

- vending the first product (see paragraph [0028]).

Regarding claim 9, Viglione discloses the method of claim 1, in which the at least one selected entitlement comprises at least one of:

- a particular product to be provided in addition to the first product (see paragraphs [0027]-[0028]); and
- an inventory group from which at least one component product is selected.

Regarding claim 10, Viglione discloses the method of claim 1, in which the at least one selected entitlement comprises at least one of:

- a discount on a product;
- a refund on a payment (see paragraph [0028]);
- a provision of at least one additional entitlement;
- a coupon; and
- an increase in a credit balance of the vending machine.

Regarding claim 11, Viglione discloses the method of claim 1, in which providing the at least one selected entitlement comprises providing a product for free (see paragraph [0028]).

Regarding claim 12, Viglione discloses the method of claim 1, further comprising:

- updating inventory data to reflect dispensed products (see paragraph [0034]).

Regarding claim 13, Viglione discloses the method of claim 1, in which outputting a presentation which indicates the set of entitlement options comprises:

- determining whether to output a presentation (see Figure 2); and
- outputting the presentation in response to a determination to output the presentation (see paragraph [0024]).

Regarding claim 14, Viglione discloses a method, comprising:

- receiving, from a customer via a vending machine, a selection of a first product that is available for dispensing by the vending machine (see step 3);
- determining, based on profit inventory management data (see paragraph [0032]), a set of products that are available for dispensing by the vending machine (see step 2);
- outputting a game to the customer (see paragraph [0024]);
- receiving, via the game, a selection of a product from the set of products, thereby defining a selected product (see step 3);
- vending the selected product (see paragraph [0027]), and
- vending the first product (see paragraph [0027]).

Regarding claim 15, Viglione discloses the method of claim 1, in which receiving, via the game, a selection of a product from the set of products comprises:

- randomly selecting a product from the set of products (see paragraph [0032]).

Regarding claim 17, Viglione discloses a method, comprising:

- initiating a transaction at a vending machine by:
  - receiving, by the vending machine, an indication of a selection of product desired for purchase by a customer (see step 3); and
  - receiving, by the vending machine, payment for the desired product (see paragraph [0019]);

- outputting, by the vending machine and after the receiving of the indication of the selection of the desired product, a game-themed presentation comprising a game result that is indicative of a refund of the payment (see paragraph [0028]); and
- finalizing the transaction by
  - dispensing, after the outputting, and by the vending machine and to the customer, a unit of the desired product (see paragraph [0028]);
  - dispensing, by the vending machine and to the customer, a refund of the payment (see paragraph [0028]).

Regarding claim 18, Viglione discloses the method of claim 17, further comprising:

- determining, by the vending machine and based on an analysis by the vending machine of a status of the vending machine and stored profit management rules, to output the indication of the refund (see paragraphs [0032]-[0034]).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone



number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael K Collins/  
Examiner, Art Unit 3651

M.K.C.  
11/08/2010